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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JOHN SCANNELL,

9 Plaintiff,

10 v.

11 WASHINGTON STATE BAR
12 ASSOCIATION, *et al.*,

13 Defendants.

CASE NO. C18-5654 BHS

ORDER AFFIRMING ORDER DECLINING
TO REASSIGN

14 This matter comes before the Court on Plaintiff's Motion and Declaration to Assign an
15 Out of State Judge to Case. Dkt. #7. Plaintiff has sued the Washington State Bar Association
16 ("WSBA") and alleges that it has "denied him his civil rights by requiring him to join the
17 Washington State Bar Association as a precondition for running for Washington State Supreme
18 Court Justice and as a precondition for practicing law in the state of Washington." Dkt. #7 at 1.
19 Plaintiff has also sued the United States District Court for the Western District of Washington
20 ("WAWD") "because the individual judges are all members of the Washington State Bar
21 Association during relevant time periods." *Id.* Plaintiff argues that because the judges of the
22 WAWD are members of the WSBA, they are "individually liable for suits against the
23 organization as a whole." *Id.* at 2. United States District Judge Benjamin H. Settle denied
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1 Plaintiff's Motion to have the case reassigned. Dkt. #12. In accordance with the Local Rules of
2 this Court, the matter was then referred to the undersigned for review. LCR 3(f).

3 Pursuant to 28 U.S.C. § 455(a), a "judge of the United States shall disqualify himself in
4 any proceeding in which his impartiality might reasonably be questioned." Federal judges also
5 shall disqualify themselves in circumstances where they have "a personal bias or prejudice
6 concerning a party, or personal knowledge of disputed evidentiary facts concerning the
7 proceeding." 28 U.S.C. § 455(b)(1). Further, section 144 of title 28 of the United States Code
8 provides:
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10 Whenever a party to any proceeding in a district court makes and files a timely
11 and sufficient affidavit that the judge before whom the matter is pending has a
12 personal bias or prejudice either against him or in favor of any adverse party, such
13 judge shall proceed no further therein, but another judge shall be assigned to hear
14 such proceeding.

15 The affidavit shall state the facts and the reasons for the belief that bias or
16 prejudice exists, and shall be filed not less than ten days before the beginning of
17 the term at which the proceeding is to be heard, or good cause shall be shown for
18 failure to file it within such time. A party may file only one such affidavit in any
19 case. It shall be accompanied by a certificate of counsel of record stating that it
20 is made in good faith.

21 28 U.S.C. § 144.

22 Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
23 if "a reasonable person with knowledge of all the facts would conclude that the judge's
24 impartiality might reasonably be questioned." *Yagman v. Republic Insurance*, 987 F.2d 622, 626
25 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of
26 bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992);
27 *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

Plaintiff has not alleged any behavior that demonstrates apparent bias towards him.
Rather, Plaintiff's Motion is premised upon the belief that members of the WSBA "are jointly

1 and severally responsible for its debts.” Dkt. #1 at ¶ 1.19. As Judge Settle noted, Plaintiff cites
2 no controlling legal precedent that supports that presumption. Dkt. #12 at 3. Plaintiff also
3 appears to sue this Court based on actions taken by its judges in their official capacity, a suit that
4 is precluded. *See, Forrester v. White*, 484 U.S. 219 (1988) (noting purposes of judicial
5 immunity). Plaintiff fails to establish bias or prejudice.

6 Plaintiff relies on prior cases where judges from other districts were assigned to hear cases
7 against the WSBA. Dkt. #7 at 1–2. But this approach is out of sync with this Court’s more recent
8 decisions putting to rest the question of whether the judges of this District may hear cases against
9 the WSBA. *See Block v. Washington State Bar Ass’n*, C15-2018RSM Dkt. #25 (W.D. Wash.
10 Feb. 24, 2016) (rejecting the same arguments Plaintiff advances and concluding that membership
11 in a bar association does not create a potentially disqualifying conflict); *Block v. Washington*
12 *State Bar Ass’n*, C18-907RSM Dkt. #62 (W.D. Wash. July 12, 2018) (“the argument that judges
13 who are members of the WSBA cannot hear this case has been addressed and disregarded in . . .
14 prior lawsuits and will not be addressed ad nauseum in subsequent vexatious litigation”).
15 Plaintiff has not made any new arguments that would lead to a different conclusion here.

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17 Accordingly, the Court finds and ORDERS that Judge Settle’s Order Declining to
18 Reassign and Referring Plaintiff’s Motion to Chief Judge (Dkt. #12) is AFFIRMED.

19 DATED this 9th day of October 2018.

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23 RICARDO S. MARTINEZ
24 CHIEF UNITED STATES DISTRICT JUDGE
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